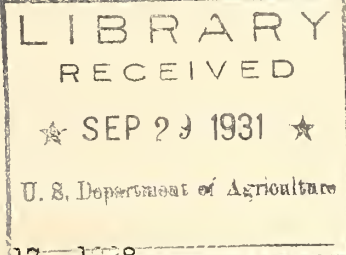


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(Originally dated 4-12-20)

UNITED STATES DEPARTMENT OF AGRICULTURE
BUREAU OF BIOLOGICAL SURVEY
Washington, D. C.



August 17, 1928

MEMORANDUM FOR U. S. GAME PROTECTORS AND U. S. DEPUTY GAME WARDENS

Concerning the scope and application of the
Migratory-Bird Treaty Act and Regulations
with respect to the possession and sale of
migratory birds or parts thereof, including
plumage, acquired before and since the Act
became effective.

The provisions of Section 2 of the Migratory-Bird Treaty Act, prohibiting the possession of migratory birds, or parts thereof, and their nests and eggs, are sufficiently comprehensive, in the opinion of the Bureau, to include possession of the same, whether acquired before or since July 3, 1918, the date on which the Act became effective. It is not the policy of the Bureau, however, to enforce this construction of the statute where a bona fide acquisition of such birds, etc., occurred prior to July 3, 1918, and no attempt to sell them has been made since such date.

The provisions of Section 2, which make it unlawful to OFFER FOR SALE, SELL, OFFER TO PURCHASE, PURCHASE, etc., apply to migratory birds or parts thereof, without regard to the time when the ownership or possession was acquired.

A person, therefore, who owned and possessed migratory birds or parts thereof, and their nests and eggs, as above outlined, prior to July 3, 1918, will not be disturbed in the possession thereof by the Bureau so long as he retains this possession for his own use, and will not be required to obtain either Federal scientific or propagating permit to legalize such possession, but the Bureau will be insistent that such birds or parts thereof, and their nests and eggs, shall not be sold, offered for sale, or otherwise trafficked in.

When live or mounted specimens of migratory birds or parts thereof, and the nests and eggs of migratory birds, are found in the possession of any person, it therefore is very important to determine (1) the date when ownership and possession thereof were acquired, and (2) whether any overt act forbidden by the Treaty Act, such as the sale or the offer for sale of the birds or parts thereof, their nests and eggs, has been committed since July 3, 1918. If the birds or parts thereof, and their nests and eggs have been sold or offered for sale in violation of the law, the necessary affidavits and report should be furnished the Bureau.

No seizure should be made, or any action taken other than to report the facts to the Bureau in cases where birds or parts thereof, their nests and eggs, were possessed before July 3, 1918, and there is no substantial evidence showing that the birds or parts thereof and their nests and eggs have been sold or offered for sale in violation of the law; but the birds or parts thereof and their nests and eggs should be seized if substantial evidence is obtained of such sale or offer for sale.

Previous instructions as to when an arrest should or should not be made will guide you in cases of this kind, as in all other cases.

W. P. Sheldon
U. S. Game Conservation Officer.